

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 7078 OF 2001 (M/S)

1. State of U.P. through Secretary, Irrigation Department,
Civil Secretariat
 2. Executive Engineer, Upper Ganga Canal Modernization-6
Roorkee, Dist. Haridwar
- Petitioners

Versus

1. Presiding Officer, Labour Court, Dehradun
 2. Sri Isham Singh s/o Kali Ram, Village & Post Toda,
Kalyanpur, District Haridwar
- Respondents

***Shri Nand Prasad, learned standing counsel for the petitioner.
Shri Sharad Sharma, learned counsel for the Respondent No.2.***

Dated: 19.10.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 03.03.2001 passed by Respondent No.1- labour Court, Dehradun in Reference Case No.04 of 2001, whereby the learned Labour Court ordered that the Respondent No.2 shall be reinstated in the services alongwith Rs. 10,000/- as compensation in lieu of back wages.

2. Brief facts of the case-giving rise to the writ petition are that the Respondent No.2 was appointed as Tracer in the petitioner's establishment w.e.f. 01.01.1990 and as such he worked continuously upto 29.06.1991. On 30.06.1991, the services of Respondent No.2 were terminated by the petitioner without following the provisions of Section 6-N of the U.P. Industrial Disputes Act, 1947. Feeling aggrieved, Respondent No.2 raised the industrial dispute, which was referred in the following terms: -

"Whether the termination of the services of the applicant/workman Shri Isham Singh S/o Shri Kaliram, Tracer by the employers from 30.06.1991 is justified and/or legal? If no, to which benefit / compensation the applicant/workman is entitled and to what extent?"

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objection. The labour court after considering the oral and documentary evidence led by the parties came to a conclusion that the termination of services of Respondent No.2 was illegal and unjustified and therefore ordered for his reinstatement with Rs.10,000/- in lieu of compensation. Feeling aggrieved, this writ petition has been filed.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The employers pleaded before the Labour Court that the workman has worked for only 208 days from October, 1990 to June, 1991. The employers' did not produce the muster roll for the period of October, 1990. The Tribunal has rightly recorded the finding that after taking into account the -30- days period for October, 1990, the workman has worked for 238 days with them. The learned Tribunal has also rightly recorded the finding that this fact cannot be understood that the workman has worked for -11- days in November, 1990 and -15- days in the month of February, 1990 even when the workman has worked for complete month in the preceding and following months. Hence, the Tribunal has rightly held that for the purpose of creating disruption, the employers have adopted malpractice so that the workman could not complete 240 days. Therefore, the Tribunal rightly held that as the workman had completed 240 days with the petitioners' establishment, he was deemed to be in continuous service and hence his termination in violation of Section 6-N of the Act was illegal and ordered for reinstatement with Rs. 10,000/- as compensation in lieu of back wages.

7. I do not find any perversity or illegality in the judgment of the learned Tribunal. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226/227 of the Constitution of India. Moreover, no error of law in recording concurrent finding of fact by the Labour Court is pointed out.

8. The writ petition is devoid of merit and is dismissed as such. No order as to costs.

(P.C. Verma, J.)

Rajeev Dang